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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,606	01/22/2001	Hiroshi Nojiri	202135US0	9738

7590 12/20/2001

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EXAMINER

BERMAN, ALYSIA

ART UNIT	PAPER NUMBER
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1619

DATE MAILED: 12/20/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/765,606

Applicant(s)

NOJIRI ET AL.

Examiner

Alysia Berman

Art Unit

1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3. 6) ☐ Other: _____

DETAILED ACTION

1. Receipt is acknowledged of the information disclosure statements filed March 30, 2001 and September 12, 2001. Claims 1 and 2 are pending.

Information Disclosure Statement

2. The information disclosure statement filed March 30, 2001 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because document JP 55-19291 was not supplied. It has been placed in the application file, but the information referred to therein and crossed through has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the abstract of JP 10279417 (417).

JP '417 discloses a cosmetic composition comprising a sesquiterpene alcohol and a sequestering agent such as alanine.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 99/33443 (443).

WO '443 is directed to cosmetic compositions (title). The compositions can contain hydrophilic active agents such as lactic acid and sodium lactate, *inter alia* (page 5, lines 7-18). The compositions may also contain fragrances such as lavender oil, patchouli oil and sandalwood oil (page 6, last two lines). See page 7 and the claims for a composition comprising hydrophilic active agent and fragrance.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,968,539 (539).

US '539 is directed to skin cleansing compositions that contain an antimicrobial active agent (title and abstract). Preferred antimicrobial active agents include natural essential oils and their chemical components such as nerolidol, *inter alia* (col. 7, line 35 to col. 8, line 2). Anionic surfactants that can be included in the compositions include sodium lauroyl glutamate and sodium cocoyl glutamate (col. 10, lines 28-34). The examples contain cocamidopropyl betaine, lactic acid and urea (col. 24-26). US '539 teaches antimicrobial skin cleansing compositions that may contain nerolidol and sodium lauroyl glutamate, sodium cocoyl glutamate, cocamidopropyl betaine, lactic acid and/or urea.


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Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alysia Berman whose telephone number is 703-308-4638. The examiner can normally be reached during core hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash can be reached on 703-308-2328. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3704 or 703-305-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234 or 703-308-1235.


Alysia Berman
Patent Examiner
December 13, 2001


DIANA DUDASH
SUPERVISORY PATENT EXAMINER
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